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10/572,833	03/21/2006	Fabien Marcel Jacques Guillorit	US030341	3648

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P.O. BOX 3001
BRIARCLIFF MANOR, NY 10510

EXAMINER

EL-ZOOBI, MARIA

ART UNIT	PAPER NUMBER
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2614

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PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/572,833

Applicant(s)

GUILLORIT, FABIEN MARCEL
JACQUES

Examiner

MARIA EL-ZOOBI

Art Unit

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-22 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-22 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on 21 September 2004 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. ____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|--|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date ____ | 6) <input type="checkbox"/> Other: ____ |

DETAILED ACTION

Information Disclosure Statement

The listing of references (WO0182789A2, WO03019450A2 and WO0207816A1) is not considered to be an information disclosure statement (IDS) because a copy of these references was not provided.

Drawings

1. The drawing (Fig. 1) is objected to because it does not have proper legends. Further, Fig. 1, el. 128 and 124 are mismatch with the description in the specification in Paragraph 0025 and 0027, also Fig. 1, el. 130, 132, 106 and 104 need to be labeled. Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Double Patenting

2. The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the

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unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. A nonstatutory obviousness-type double patenting rejection is appropriate where the conflicting claims are not identical, but at least one examined application claim is not patentably distinct from the reference claim(s) because the examined application claim is either anticipated by, or would have been obvious over, the reference claim(s). See, e.g., *In re Berg*, 140 F.3d 1428, 46 USPQ2d 1226 (Fed. Cir. 1998); *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) or 1.321(d) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent either is shown to be commonly owned with this application, or claims an invention made as a result of activities undertaken within the scope of a joint research agreement.

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

Claims 1-22 are provisionally rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 1-22 of copending Application No. 10/572836. Although the conflicting claims are not identical, they are not patentably distinct from each other because for example, application claim 1 and co-pending Application claim 1 are both drawn to the same invention. For example, claim 1 of instant application recited a specific signal (i.e., health care characteristic corresponding to a general "vital signal" is recited in the co-pending application. It is clear that the specific health care characteristic signal reads on the "vital signal".

This is a provisional obviousness-type double patenting rejection because the conflicting claims have not in fact been patented.

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 1, 3-4, 6-7, 9-11, 13-14, 16-17, 19-20 and 22 are rejected under 35 U.S.C. 103(a) as being unpatentable over David et al US (5,544,649) view of Quy US (5,601,435).

Regarding claim 1, David discloses, a system for health care monitoring of a person (Fig. 1), the system comprising:

central office that include a central computer (Fig. 1, el. 20 and Fig. 5, el. 70) operatively connected to at least one of a television display (Fig. 5, el. 88 and Fig. 6, el. 24) and speaker (Col. 11, lines 1-2, 18-21 and 34-35 and Col. 15, lines 61-62; it is inherent to have a Speaker connected to the computer, since there is audio/video communication between patient Fig.1, el. 10, central office Fig. 1, el. 20 and the physician office Fig. 1, el. 30), the computer being further operatively connected to a network (Fig. 1, 14); and

one or more wireless sensors for measuring a healthcare characteristic of the person (Col. 7, lines 37-40 and Col. 8, lines 40-45 and Col.19, lines 24-34; the system include sensors to measure the health characteristic of the patient and theses sensors

could be wireless ones)

and transmitting the same to the computer (Col. 12, lines 27-35), the one or more wireless sensors being wirelessly connected to the central computer (Col. 8, lines 42-44).

David does not disclose a set-top-box.

Quy discloses a set-top-box (Fig. 1, el. 16) connect to a television display (Fig. 1, el. 6) that receive a user's health information (Col. 4, lines 3-16 and 47-47).

Therefore, it would be have been obvious to one with ordinary skill in the art, at the time the invention was made to modify David system to include a set-top-box as suggested by Quy, in order to allow the user to receive a television signal, so the user this way can receive the user this way can receive the user's health information by the set-top-box in a television signal and display the receive info on the TV screen.

Regarding claim 3, David in view of Quy discloses, a remote station (Fig. 1, el. 30; reads on the physician office) operatively connected to the set-top-box through the network (Fig. 1, el. 14; the data is transfer from the central office to the physician office), wherein the health care characteristic is transmitted from the set-top-box to the remote station via the network (Col. 9 lines 26-29 and see Fig. 2, el. 30, 20 and 14).

regarding claim 4, David in view of Quy discloses, wherein the remote station is a location of a medical professional (Fig. 1, el. 30 , Col. 9, lines 24-25 and Col. 11, lines 34-35).

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Regarding claim 6, David in view of Quy discloses, the set-top-box having means for contacting a medical professional other than through the network (Col. 9, lines 32-37 and Col. 11, lines 54-57).

Regarding claim 7, David in view of Quy discloses, a remote station (Fig. 1, el. 30) operatively connected to the set-top-box through the network (the physician remote station is connected to the central station that include the set-top-box through the network Fig. 1, el. 14), wherein an instruction for contacting the medical professional (reads on the emergency services center Fig. 1, el. 40) originates at the remote station (Col. 11, lines 54-57).

Regarding claim 9, David in view of Quy discloses, at least one video camera (Fig. 6, el. 22) operatively connected to the set-top-box for transmitting a video signal of the person to the remote station (Col. 11, lines 33-35).

Regarding claim 10, David in view of Quy discloses, at least one video camera operatively connected to the location of the medical professional (Fig. 2, el. 36) for transmitting a video signal of the medical professional to the set-top-box for display on the television display (Col. 9, lines 30-31).

Regarding claim 11, David discloses a method for health care monitoring of a Person (Col. 7, lines 29-30) comprising:

operatively connecting a central computer in the central station (Fig. 5, el. 70) to a network (Fig. 1, el. 14) and to at least one of a television display (Fig. 5, el. 88 and

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Fig. 6, el. 24) and speaker (Col. 11, lines 1-2, 18-21 and 34-35 and Col. 15, lines 61-62; it is inherent to have a Speaker connected to the computer, since there is audio/video communication between patient Fig. 1, el. 10, central office Fig. 1, el. 20 and the physician office Fig. 1, el. 30); and

wirelessly transmitting a healthcare characteristic of the person (Col. 12, lines 27-35, Col. 8, lines 42-44) from one or more wireless sensors to the central computer (Col. 7, lines 37-40 and Col. 8, lines 40-45 and Col. 19, lines 24-34).

David does not disclose a set-top-box.

Quy discloses a set-top-box (Fig. 1, el. 16) connect to a television display (Fig. 1, el. 6) that receive a user's health information (Col. 4, lines 3-16 and 47-47).

Therefore, it would be have been obvious to one with ordinary skill in the art, at the time the invention was made to modify David system to include a set-top-box as suggested by Quy, in order to allow the user to receive a television signal, so the user this way can receive the user this way can receive the user's health information by the set-top-box in a television signal and display the receive info on the TV screen.

Regarding claim 13, David in view of Quy discloses, operatively connecting the set-top-box to a remote station (Fig. 1, el. 30; reads on the physician office) through the network (Fig. 1, el. 14; the data is transfer from the central office to the physician office) wherein the healthcare characteristic is transmitted from the set-top-box to the remote station via the network (Col. 9 lines 26-29 and see Fig. 2, el. 30, 20 and 14).

Regarding claim 14, David in view of Quy discloses wherein the operatively

connecting of the set-top-box to the remote station comprises connecting the set-top-box to a medical professional (Fig. 1, el. 40; the central computer in the central station is operatively connected to a medical professional Fig. 1, el. 40 which could be a ambulance, fire department personal Col. 9, lines 35-37).

Regarding claim 16, contacting a medical professional from the set-top-box other than through the network (Col. 9, lines 32-37 and Col. 11, lines 54-57).

Regarding claim 17, David in view of Quay discloses, the remote station (Fig. 1, el. 30) is operatively connected to the set-top-box through the network (the physician remote station is connected to the central station that include the set-top-box through the network Fig. 1, el. 14), wherein the contacting comprises issuing an instruction for contacting the medical professional (reads on the emergency service center Fig. 1, el. 40) from the remote station (Col. 11, lines 54-57).

Regarding claim 19, David in view of Quay discloses, transmitting a video signal of the person from the set-top-box to the remote station (Col. 11, lines 33-35).

Regarding claim 20, David in view of Quay discloses, transmitting a video signal of the medical professional from the remote station to the set-top-box and displaying the video signal on the television display (Col. 9, lines 30-31).

Regarding claim 22, David in view of Quay discloses, storing a period of the healthcare characteristic in a memory (Fig. 4, el. 72 and Col. 12, lines 32-33) in the set-

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top-box (Col. 12, lines 35-37); and

retrieving at least a portion of the stored healthcare characteristic from the memory for diagnosis of the person (Col. 12, lines 36-45).

5. Claims 2, 8, 12, 18 and 21 are rejected under 35 U.S.C. 103(a) as being unpatentable over David et al US (5,544,649) in view of Quy US (5,601,435) in view of Leven US (2004/0030581).

Regarding claim 2, David in view of Quy discloses, a communication network (Fig. 1, el. 14)

David in view of Quy does not discloses, the network is the internet.

Leven discloses, a health care monitoring system (Fig. 2, el. 200), wherein the network between the patient, a third party and the health professional is an internet network (Paragraph 0026).

Therefore, it would have been obvious to one with ordinary skill in the art, at the time the invention was made, to modify David in view of Quy system to include internet as suggest by Leven, in order for the user to have different communication options With the other parties, i.e., the patient can communicate with the other parties via email.

Regarding claim 8, David in view of Quy discloses, the set-top-box having means for alerting the person on one of the television display (Col. 13, lines 39-40) and speaker (Col. 14, lines 59-60 and Col. 15, lines 4-7; the nurse can instruct the patient orally).

David in view of Quy does not discloses that alerting the person of at least one of

a type of medication to take, a dose of medication to take, and a description of medication to take.

Leven discloses, a health care monitoring system (Fig. 2, el. 200) that include provide an instruction for the patient about a does of medication to take (Paragraph 0052, lines 7-9).

Therefore, it would have been obvious to one with ordinary skill in the art, at the time the invention was made to modify David in view of Quy system to include instruction for the patient about his/her medication as suggest by Leven, so the patient will take a right dose of the medication in order to avoid any health problem by misuse the medication.

Regarding claim 12, David in view of Quy discloses, the operatively connecting comprises connecting the set-top-box to the network (Fig. 1, el. 14).

David in view of Quy does not discloses, the network is the internet.

Leven discloses, a health care monitoring system (Fig. 2, el. 200), wherein the network between the patient, a third party and the health professional is an internet network (Paragraph 0026).

Therefore, it would have been obvious to one with ordinary skill in the art, at the time the invention was made, to modify David in view of Quy system to include internet as suggest by Leven, in order for the user to have different communication options With the other parties, i.e., the patient can communicate with the other parties via email.

Regarding claim 18, David in view of Quy discloses, alerting the person on one of

the television display (Col. 13, lines 39-40) and speaker (Col. 14, lines 59-60 and Col. 15, lines 4-7; the nurse can instruct the patient orally) from the set-top-box (Col. 13, lines 39-40).

David in view of Quy does not disclose that alerting the person of at least one of a type of medication to take, a dose of medication to take, and a description of medication to take.

Leven discloses, a health care monitoring system (Fig. 2, el. 200) that include provide an instruction for the patient about a dose of medication to take (Paragraph 0052, lines 7-9).

Therefore, it would have been obvious to one with ordinary skill in the art, at the time the invention was made to modify David in view of Quy system to include instruction for the patient about his/her medication as suggest by Leven, so the patient will take a right dose of the medication in order to avoid any health problem by misuse the medication.

Regarding claim 21, David in view of Quy discloses, transmitting to an ambulance over a network

David in view of Quy does not disclose, transmitting a health care characteristic and that the transmitting is performing wirelessly through a wireless network.

Leven discloses, wirelessly transmitting the healthcare characteristic to a medical service provider or to a third party over a wireless network (Paragraph 0026, and 0027).

Therefore, it would have been obvious to one with ordinary skill in the art, at the time the invention was made to modify David in view of Quy method to include

transmitting the health characteristic of the patient to the ambulance, as suggested by Leven in order to provide better service for the patient, so the ambulance personnel will know exactly the patient's situation and be prepared before he /she gets to the location of the patient.

6. Claims 5 and 15 are rejected under 35 U.S.C. 103(a) as being unpatentable over David et al US (5,544,649) in view of Quy US (5,601,435) in view of Brown US (2004/0015132).

Regarding claim 5, David in view of Quy discloses at least one equipment having at least one function under the control of the set-top-box via the remote station (the physician at the at the physician office can have a video/audio communication with the patient through the central office Col. 9, lines 24-31, in the central office, the central computer has a control function over a camera , so when the physician in the remote station wants to start a video conversation with the patient, the central computer send a command to start up the camera Col. 13, lines 40-41).

David in view of Quy does not disclose, that the equipment is a medical equipment.

Brown discloses, a health care monitoring system (Fig. 1) that include a medical equipment that is controlled by a base station through a remote station to provide the patient with the necessary medication (see Fig. 1 and Paragraph 0042, lines 11-15, Paragraph 0047 and 0048).

Therefore, it would have been obvious to one with ordinary skill in the art, at the time the invention was made, to modify David in view of Quay system to include a medical equipment, as suggest by Brown, in order to provide immediate help for the patient when the physician decide that the patient in dangerous situation, so this way will reduce the risk of the patient's health.

Regarding claim 15, David in view of Quay discloses, controlling at least one function of an equipment from the set-top-box via the remote station (the physician at the at the physician office can have a video/audio communication with the patient through the central office Col. 9, lines 24-31, in the central office, the central computer has a control function over a camera, so when the physician in the remote station wants to start a video conversation with the patient, the central computer send a command to start up the camera Col. 13, lines 40-41).

David in view of Quay does not disclose, that the equipment is a medical equipment.

Brown discloses, a health care monitoring system (Fig. 1) that include a medical equipment that is controlled by a base station through a remote station to provide the patient with the necessary medication (see Fig. 1 and Paragraph 0042, lines 11-15, Paragraph 0047 and 0048).

Therefore, it would have been obvious to one with ordinary skill in the art, at the time the invention was made, to modify David in view of Quay system to include a medical equipment, as suggest by Brown, in order to provide immediate help for the

patient when the physician decide that the patient in dangerous situation, so this way will reduce the risk of the patient's health.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to MARIA EL-ZOOBI whose telephone number is (571)270-3434. The examiner can normally be reached on Monday-Friday (8AM-5 PM).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Fan Tsang can be reached on 571-272-7547. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

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/Maria El zoobi/

Examiner, Art Unit 4178



FAN TSANG
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2600